

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

STATE OF WASHINGTON; STATE OF
ARIZONA; STATE OF ILLINOIS; and
STATE OF OREGON,

Plaintiffs,

v.

DONALD TRUMP, in his official capacity
as President of the United States; U.S.
DEPARTMENT OF HOMELAND
SECURITY; KRISTI NOEM, in her official
capacity as Secretary of Homeland Security;
U.S. SOCIAL SECURITY
ADMINISTRATION; MICHELLE KING,
in her official capacity as Acting
Commissioner of the Social Security
Administration; U.S. DEPARTMENT OF
STATE; MARCO RUBIO, in his official
capacity as Secretary of State; U.S.
DEPARTMENT OF HEALTH AND
HUMAN SERVICES; DOROTHY FINK,
in her official capacity as Acting Secretary
of Health and Human Services; U.S.
DEPARTMENT OF JUSTICE; JAMES
MCHENRY, in his official capacity as
Acting Attorney General; U.S.
DEPARTMENT OF AGRICULTURE;
GARY WASHINGTON, in his official
capacity as Acting Secretary of Agriculture;
and the UNITED STATES OF AMERICA,

Defendants.

NO. 2:25-cv-00127-JCC

DECLARATION OF
APRILLE FLINT-GERNER

DECLARATION OF APRILLE FLINT-GERNER

I, Aprille Flint-Gerner, declare as follows:

1. I am over the age of 18, competent to testify as to the matters herein, and make this declaration based on my personal knowledge and records of the Oregon Department of Human Services that are kept in the ordinary course of its business.

2. I am the Director for the Oregon Child Welfare Division of the Oregon Department of Human Services. (ODHS). I have served as Director since July 2023 and was previously the Child Welfare Interim Director. I am responsible for executive level oversight and administration of Oregon's foster care program and compliance with Title IV-E.

3. I hold a Bachelor of Arts in African American Studies and a Master of Social Work from San Jose State University. I have more than 25 years of experience in public sector work, including specialized experience in workforce and adaptive leadership development, community and cross-system engagement, and technical assistance and implementation support. I have specialized knowledge and expertise in many promising practices and equity frameworks in child welfare and human services. I am knowledgeable about the administration of the Child Welfare Division, including its implementation of Title IV-E.

4. The Child Welfare Division of ODHS is focused on the well-being of children. Its mission is to ensure every child and family is empowered to live a safe, stable and healthy life. We are part of a larger statewide social system that works to support children, families and communities. Child Welfare focuses on keeping families together whenever it is safe to do so.

5. One of ODHS's duties is to administer Oregon's child welfare system. Oregon's child welfare system is funded in part through an annual appropriation based on an open-ended formula grant entitlement operated by the U.S. Department of Health and Human Services (HHS) Federal Foster Care Program, known as Title IV-E.

6. Title IV-E includes various programs that provide funding to children and ODHS. While ODHS provides foster care support for all children in the foster care system, regardless of

1 immigration status, it receives federal matching reimbursements for any funds that are directed
2 to foster children eligible for Title IV-E. Children must be citizens or qualifying non-citizens to
3 be entitled to enjoy benefits under Title IV-E and may be eligible as soon as birth. ODHS does
4 not receive reimbursements based on their services to individuals who are undocumented or do
5 not have a lawful, qualifying immigration status, as defined in Title IV-E. ODHS is also entitled
6 to reimbursements for many types of administrative costs incurred in serving Title IV-E children,
7 including the administration of various Title IV-E programs that ODHS administers and receives
8 funding for.

9 7. Included in Title IV-E's funding program is its "Adoption and Guardianship
10 Assistance Program," which provides funding to facilitate the timely placement of children,
11 whose special needs or circumstances would otherwise make it difficult for them to have
12 permanency through adoption or guardianship. Under federal law, Child Welfare Division
13 receives Title IV-E funding for the administrative functions of the Adoption and Guardianship
14 Assistance Program, which includes:

15 a. Overall: the determination and redetermination of eligibility; fair hearings and
16 appeals; rate setting; other costs directly related only to the administration of the
17 adoption and guardianship assistance program; the administration of any
18 grievance procedures; negotiation and review of adoption/guardianship
19 assistance agreements; post-placement management of subsidy payments; a
20 proportionate share of related agency overhead; development of the case plan;
21 referral to services; home studies; and mediation of post-finalization contact
22 agreements.

23 b. For adoptions: recruitment of adoptive homes; placement of the child in the
24 adoptive home; case reviews conducted during a specific preadoptive placement
25 for children who are legally free for adoption; case management and supervision
26

1 prior to a final decree of adoption; and a proportionate share of the development
2 and use of adoption exchanges.

3 8. Title IV-E also includes a “Foster Care Maintenance Payments Program,” which
4 provides funding for the regular costs of supervising and providing social services to children in
5 foster care. This includes: payments to cover the cost of (and the cost of providing) food,
6 clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability
7 insurance with respect to a child and reasonable travel to the child's home for visitation and
8 reasonable travel for the child to remain in the school in which the child is enrolled at the time
9 of placement. In the case of institutional care, it also includes the administration of providing all
10 of the services detailed above.

11 9. Title IV-E funds the Independent Living Program services for youth who are age
12 14 and over and the Chafee educational stipends to support young adults pursuing higher
13 education after experiencing foster care.

14 10. Title IV-E administrative funds support the training of agency staff, including
15 resource parents (who some states refer to as foster parents), as well as funding training for legal
16 representation for parents and children, Court-Appointed Special Advocates (CASA), and
17 members of the Citizen Review Board (CRB).

18 11. Title IV-E funding is critical to ensuring high quality service to Oregon’s children
19 who experience foster care today and in the future.

20 12. The amount of federal funds that Oregon is entitled to under Title IV-E depends
21 on the number of Title IV-E eligible children. The amount Oregon receives is based on Oregon’s
22 “eligibility rate” or “penetration rate,” which is then used to determine the amount Oregon will
23 be reimbursed for providing services. The eligibility rate describes the percentage of Title IV-E
24 eligible children being served, compared against the total number of served children in foster
25 care, pursuant to the definition of foster care in 45 CFR 1355.20. The total number of children
26 being served depends on the services being provided. For example, Title IV-E reimburses Child

1 Welfare Division for payments for services in support of children placed in a resource family
2 home, a licensed group care facility, or in a home other than that of the child's parent, guardian,
3 or legal custodian. The reimbursed services include the recruitment, training, and management
4 of resource parents, the recruitment of adoptive families, and the facilitation of the adoption
5 process, among other services. The rate that CWD is reimbursed for the costs related to serving
6 children in paid out of home care is calculated by the number of days that Title IV-E eligible
7 children were in paid out of home care divided by the total number of days that all children
8 (including children ineligible for Title IV-E) were in paid out of home care.

9 13. Because the penetration rate depends on the number of children eligible for Title
10 IV-E funding, even a small decrease in the number of children eligible for Title IV-E funding
11 would have dramatic impacts on the total amount of federal funding that Oregon receives under
12 Title IV-E.

13 14. For example, in Federal Fiscal Year 2024, Oregon spent a total of \$792,403,677
14 to administer its child welfare system. That same year, Oregon had a penetration rate of 49%
15 percent, based on approximately 2,200 children who are eligible for Title IV-E divided by
16 approximately 4,490 children in foster care on a given day. Consequently, even 45 fewer children
17 being eligible for Title IV-E funding would have decreased Oregon's penetration rate by 1%
18 percent, which would have decreased Oregon's reimbursement by \$3.4 million. Or, taking a
19 different approach, if 1,500 children are born annually in Oregon who would not be considered
20 citizens under the federal executive order, then we can extrapolate the impact based on the
21 percentage of Oregon children who enter foster care. Using fiscal year 2024 dollars and foster
22 care percentages (.005%), there would be eight children who would enter foster care and would
23 not be considered citizens and who, therefore, would not be entitled to Title IV-E eligibility.
24 Even just eight fewer eligible children per year equates to \$596,850.49 in lost federal funding
25 based on fiscal year 2024 expenditures.
26

1 15. The impact of the executive order on Oregon's child welfare system would not
2 be limited to a reduction in federal funding for care of the children experiencing foster care. The
3 recent executive order purporting to end birthright citizenship for children born in the United
4 States based on their parent(s)' non-citizen/immigration status, if implemented, would have a
5 variety of widespread impacts on Oregon's foster care program, including an increase in the
6 operational and administrative costs for Oregon's foster care program.

7 16. In addition to impacts on those subject to this new policy, the federal
8 government's action would increase the cost of ODHS's administration of its foster care
9 programs and, at the same time, decrease the amount of federal funding Oregon receives to
10 reimburse administrative and maintenance costs related to its services for foster children in
11 Oregon.

12 17. ODHS is required by federal law to verify the citizenship status of all individuals
13 receiving foster care support under Title IV-E, to determine the child's eligibility. Currently, the
14 primary method of citizenship verification is through birth certificates held by other state
15 agencies. Because ODHS can serve children as soon as they are born, it relies on birth certificates
16 to determine whether young children are eligible under Title IV-E. When a child enters foster
17 care, ODHS does not otherwise verify the citizenship of their biological parents in any way, as
18 the parent(s)' citizenship is irrelevant to the services that Child Welfare provides.

19 18. ODHS has no system in place to determine the citizenship of a child's parents
20 when the child enters foster care. If ODHS were required to change its practices to conform with
21 the federal government's executive order, ODHS would also need to develop that system and
22 develop updated comprehensive training for staff, partners, and other contracted agencies who
23 carry out Title IV-E duties. For example, ODHS would likely need to update its training and
24 guidance around which children are citizens and therefore eligible for Title IV-E funding, and
25 which children are only eligible for state-only programs. Moreover, Title IV-E requires ODHS
26 to verify the citizenship of each child for whom it seeks federal reimbursements. While ODHS

1 was previously able to rely on birth certificates to meet its federal obligation, it would no longer
2 be able to do so and would need to create a process to verify the citizenship of the parents at the
3 time the child enters foster care to determine whether the ODHS is entitled to federal
4 reimbursements. This would be a significant and costly administrative burden on the State and
5 ODHS.

1 I declare under penalty of perjury under the laws of the State of Oregon and the United
2 States of America that the foregoing is true and correct.

3 DATED and SIGNED this 24th day of January, at Happy Valley, OR.

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